

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re VEECO INSTRUMENTS, INC. : MDL No.: 7:05-md-01695 (CM)(GAY)
SECURITIES LITIGATION :
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THIS DOCUMENT RELATES TO :
ALL ACTIONS :
:-----X

**LEAD PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL
DEFENDANTS TO PRODUCE ELECTRONIC DISCOVERY**

PLEASE TAKE NOTICE that, upon the papers to be filed with this Court, Lead Plaintiff, by their counsel Berger & Montague, P.C., shall respectfully move this Court, before the Honorable George A. Yantthis, United States Magistrate Judge, at a date and time to be determined by the Court, for an Order, pursuant to Fed. R. Civ. P. 37(a), compelling Defendants Veeco Instruments, Inc., Edward H. Braun, John F. Rein, Jr. and John P. Kiernan to produce to Lead Plaintiff all non-privileged documents which are stored electronically on backup tapes and which are responsive to Lead Plaintiff's requests for production of documents. Through this motion to compel, Lead Plaintiff seeks only those documents concerning Edward H. Braun, John F. Rein, Jr., John P. Kiernan, Gary Reifert, Scott Glassman, Larry Karp and Frances Scally. Production of these documents should be compelled for the reasons set forth in Lead Plaintiff's supporting Memorandum of Law which is fully incorporated herein by reference.

Lead Plaintiff has conferred with Defendants regarding this dispute and the parties have not been able to reach a resolution.

PLEASE TAKE FURTHER NOTICE that Plaintiff requests oral argument on this motion.

A proposed form of Order is submitted herewith.

DATED: February 28, 2007

BERGER & MONTAGUE, P.C.

By:



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